

Tuesday, August 24, 2010

The Board met at its offices at 450 N Street, Sacramento, at 10:04 a.m., with Ms. Yee, Chairwoman, Mr. Horton, Vice Chair, Ms. Alby and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Christopher J. Hadsell and Catherine C. Hadsell, 477797

2000, \$241,292.00 Assessment

For Appellant:

Christopher J. Hadsell, Taxpayer

Catherine J. Hadsell, Taxpayer

For Franchise Tax Board:

Chris Haskis, Tax Counsel

Ron Hofsdal, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants were residents of California during the year 2000 through at least July 13, 2000, or whether appellants have shown that they changed their domicile from California to Nevada on February 11, 2000, and that they were no longer California residents as of that date.

Action: Upon motion of Ms. Mandel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 11:38 a.m. and reconvened at 11:43 a.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

Noel Yi and Meiling Yi, 479854

2005, \$76,294.00 Claim for Refund

For Appellant:

Steven Dorough, Representative

For Franchise Tax Board:

Delinda Tamagni, Tax Counsel

Michael Cornez, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants satisfied their burden of proof for increasing their cost basis in a commercial property.

Whether appellants satisfied their burden of proof for increasing their cost basis in a personal residence.

Appellant's Exhibit: Copies of Checks ([Exhibit 8.1](#))

Action: Upon motion of Ms. Mandel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

The Board recessed at 12:16 p.m. and reconvened at 1:30 p.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

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Brent C. Welling and Viki Lee Welling, 348029

1998, \$188,585.00 Assessment, \$47,146.00 Late Filing Penalty, \$47,146.00 Failure to Furnish Penalty

1999, \$39,636.00 Assessment, \$9,909.00 Late Filing Penalty, \$9,909.00 Failure to Furnish Penalty

2000, \$192,559.00 Assessment, \$48,140.00 Late Filing Penalty, \$48,140.00 Failure to Furnish Penalty

For Appellant:

Brent C. Welling, Taxpayer

Viki Lee Welling, Taxpayer

Minna C. Yang, Attorney

For Franchise Tax Board:

Raul Escatel, Tax Counsel

Bill Hison, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants were California residents during the years at issue.

Whether appellants had a California filing requirement, and if so, whether there was reasonable cause for appellants' failure to file timely California returns.

Whether appellants complied with respondent's demands for information, and if not, whether there was reasonable cause for such failure.

Whether respondent's position with respect to residency is without merit, so that appellants are entitled to attorney fees under Revenue and Taxation Code section 21013.

Appellant's Exhibit: Photographs and Miscellaneous Documents ([Exhibit 8.2](#))Respondent's Exhibit: Calendar ([Exhibit 8.3](#))

Action: Upon motion of Mr. Horton, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 3:17 p.m. and reconvened at 3:29 p.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

Ms. Steel introduced two interns of her office: Alex Choi, who attends UC San Diego; and, Albert Kim, who attends Boston College.

Maureen T. Scarbery and Brian E. Scarbery, 480106

1999, \$162.00 Assessment, \$140.83 Fraud Penalties

2000, \$2,446.00 Assessment, \$2,098.70 Fraud Penalties

2001, \$4,516.00 Assessment, \$3,755.78 Fraud Penalties

2002, \$4,956.00 Assessment, \$3,717.00 Fraud Penalties

For Appellant:

Maureen Scarbery, Taxpayer

Curtis Alexandedr, Representative

For Franchise Tax Board:

Raul Escatel, Tax Counsel

Bill Hilson, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants have shown that the proposed assessments for the 1999, 2000, 2001, and 2002 tax years are erroneous.

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Whether respondent has shown that it properly imposed the fraud penalties pursuant to Revenue and Taxation Code section 19164.

Action: Upon motion of Ms. Mandel, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

George Daniel, 518507

2007, \$986.00 Assessment, \$246.50 Late Filing Penalty, \$1,022.75 Demand Penalty

For Appellant: George Daniel, Taxpayer

For Franchise Tax Board: Jaclyn Appleby, Tax Counsel

Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the underlying tax assessment.
Whether appellant has shown reasonable cause for his failure to file a timely return and failure to respond to FTB's demand for his tax return.

Whether the Board should impose a frivolous appeal penalty.

Action: Upon motion of Ms. Alby, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

PUBLIC HEARINGS

Proposed repeal of Property Tax Rule 471, *Timberland*, and the proposed amendments of Property Tax Rule 1020, *Timber Value Areas*

Bradley Heller, Tax Counsel, Tax and Fee Program Division, Legal Department, made introductory remarks regarding the proposed repeal of Property Tax Rule 471, *Timberland*, and the proposed amendments of Property Tax Rule 1020, *Timber Value Areas* ([Exhibit 8.4](#)).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Steel, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board repealed Property Tax Rule 471, *Timberland*, and adopted amendments to Property Tax Rule 1020, *Timber Value Areas*, as recommended by staff.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Mark S. Harris, 382766, 382767 (ET)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Horton, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Mark S. Harris, 382766, 382767 (ET)

Action: The Board took no action.

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Surinderjeet S. Hundal, 448324 (KH)

3-23-03 to 11-18-03, \$497.59 Tax, \$158.20 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Ronnie A. Margolis, 343234 (AC)

7-1-98 to 3-31-02, \$72,830.94 Tax, \$14,406.11 Penalties

Action: Redetermine as recommended by the Appeals Division.

Paul L. Swanson, 417810 (GH)

7-1-03 to 6-30-06, \$43,682.46 Tax, \$8,876.12 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Ron Dixon, 373224 (KH)

1-1-05 to 12-31-05, \$10,735.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Ron J. Keifer, 436183 (KH)

1-1-04 to 12-29-05, \$7,357.39 Tax, \$1,138.08 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

MHCS, Inc., 392204 (OH)

4-1-02 to 12-31-05, \$195,557.61 Tax

ABC Medical Supply, Inc., 392205 (KH)

4-1-02 to 12-31-05, \$206,436.37

Action: Redetermine as recommended by the Appeals Division.

Frank's Foreign Car Service, Inc., 336170, 353594 (EA)

1-1-01 to 9-30-94, \$106,374.66 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

Stephen Anthony Fernando and Vivina B. Fernando, 468671, 489812 (EH)

7-1-05 to 12-31-05, \$1,487.16 Tax, \$0.00 Negligence Penalty

1-1-06 to 3-31-08, \$16,383.77 Tax

Action: Redetermine as recommended by the Appeals Division.

Sor Lo, 524507 (ET)

11-4-09 Seizure Date, \$41.79 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Prasad Leon Pollayil, 528874 (ET)

2-4-10 Seizure Date, \$426.93 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Mahana Askandafi, 530882 (ET)

2-19-10 Seizure Date, \$415.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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David Odom, et al., 530188 (ET)

1-24-10 Seizure Date, \$4,686.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Alla Eddine Beddar Benhamimi, 524525 (ET)

11-13-09 Seizure Date, \$31,473.32 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Adel Mubaraka and Mountaha Mubaraka, 530896 (ET)

1-23-10 Seizure Date, \$883.50 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Adellita Adel Kurdi, 530199 (ET)

2-4-10 Seizure Date, \$8,650.75 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Yong Joa Lee, 527350 (ET)

12-18-09 Seizure Date, \$880.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Yen Oanh Thi Pham, 527340 (ET)

2-4-10 Seizure Date, \$360.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

First Funding Capital, Inc., 527319 (ET)

11-18-09 Seizure Date, \$1,450.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Karen Bau, 530195 (ET)

3-4-10 Seizure Date, \$136.67 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Jesus Adabache Ortiz and Armando Flores Esquivel, 529430 (ET)

11-30-09 Seizure Date, \$582.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Eric Brian Scherz, 401795 (CH)

Rebecca Ann Scherz, 416659 (CH)

4-1-03 to 4-15-04, \$00.00 Tax, \$9,902.42 Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Testout Corporation, 400769 (OH)

1-1-03 to 12-31-05, \$45,482.23 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

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CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Bruce Culver and Donna Turner Culver, 480448*; and, *Donald A. Wattson and Christine A. Wattson, 446005*.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Claude Boehm, 470273

2000, \$2,093.75 Claim for Refund

2002 \$2,846.50 Claim for Refund

2003 \$2,355.75 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ronald R. Diamond and Elaine Diamond, 472937

2003, \$606.54 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

DRC Properties, LLC, 473517

2007, \$72.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael R. Forbes, 479662

2003, \$21,521 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas P. Jones II, 472660

2004, \$1,819 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth W. Knutson and Angela M. Knutson, 440749

2004, \$741 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michele C. Kunz, 488148

205, \$517.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Edward Martinez, 473585

2006, \$435.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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John Mauricio (Deceased), 467789

2005, \$1.00 or more Assessment

Action: Sustain the action of the Franchise Tax Board.

Third Step Productions, LLC, 351210

2002 to 2004, \$3,780.67 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Nayankumar Patel and Ragini Patel, 493155

2007, \$529.77 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Gwendolyn A. Webber, 485103

2007, \$455.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Bruce Culver and Donna Turner Culver, 480448

Action: The Board took no action.

Jerry Douglas and Annamaria Douglas, 423815

2003, \$5,874.00 Tax

Action: Deny the petition for rehearing.

Donald A. Wattson and Christine A. Wattson, 446005

Action: The Board took no action.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Ronnie Crawford, 444023

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Maria Dodos, 484589

2007, \$472.60

Action: Sustain the action of the Franchise Tax Board.

Frank Gaines, 478805

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Scott W. Hanks, 444212

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Lillie Hinton, 437554

2007, \$37.50

Action: Sustain the action of the Franchise Tax Board.

Jimmy Hooper, 425151

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Bridget E. Johnson, 434339

2007, \$472.00

Action: Sustain the action of the Franchise Tax Board.

Carlos Mercado, 398640

2006, \$375.00

Action: Sustain the action of the Franchise Tax Board.

Jose Munetones, 480381

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Maria Elena Padilla, 442545

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Moises Perea Romo, 449941

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Elizabeth Rowland, 480584

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Kenneth Savidge, 441583

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

A. Woods, 443186

2007, \$1.00 or more

Action: Deny the petition for rehearing.

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**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Fleetwood Enterprises, Inc., 513910 (EH)

1-1-05 to 12-31-06, \$156,964.17

Action: Approve the redetermination as recommended by staff.

Synthes North America, Inc., 488961 (OH)

1-1-05 to 12-31-07, \$142,076.90

Action: Approve the redetermination as recommended by staff.

Mark Glassman, 430594 (JH)

10-1-00 to 3-31-04, \$159,706.77

Action: Approve the redetermination as recommended by staff.

Mark Hayes Stuart, 523244 (EH)

4-1-05 to 11-5-06, \$243,069.51

Action: Approve the redetermination as recommended by staff.

Imax Corporation, 464386 (OH)

1-1-03 to 12-31-06, \$692,170.21

Action: Approve the redetermination as recommended by staff.

Chrysler Financial Company, LLC, 263012 (OH)

10-26-98 to 11-31-01, \$311,675.77

Action: Approve the redetermination as recommended by staff.

Autohaus West, LLC, 489021 (EA)

7-1-04 to 6-30-07, \$407,694.22

Action: Approve the redetermination as recommended by staff.

American Apparel, LLC, 489340 (AA)

1-1-02 to 6-30-03, \$252,588.20

Action: Approve the redetermination as recommended by staff.

Cellco Partnership, 487055 (OH)

1-1-03 to 12-31-05, \$153,470.94

Action: Approve the redetermination as recommended by staff.

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Steve Lee, 467788 (GH)

1-1-05 to 12-31-07, \$348,958.79

Action: Approve the redetermination as recommended by staff.

Nextel of California, Inc., 482477 (OH)

4-1-02 to 6-31-05, \$7,386,150.23

Action: Approve the redetermination as recommended by staff.

GTE Mobilnet of Santa Barbara, LP, 479518 (OH)

7-1-02 to 12-31-05, \$1,381,902.39

Action: Approve the redetermination as recommended by staff.

Cenveo Corporation, 483493 (OH)

7-1-03 to 6-30-06, \$316,465.95

Action: Approve the redetermination as recommended by staff.

Serco Management Services, Inc., 400359 (OH)

10-1-02 to 12-31-05, \$183,368.05

Action: Approve the redetermination as recommended by staff.

Arredondo Group, Inc., 459784 (AA)

10-1-04 to 11-7-07, \$205,957.22

Action: Approve the redetermination as recommended by staff.

American Apparel, Inc., 489343 (AA)

7-1-03 to 12-31-07, \$2,390,158.53

Action: Approve the redetermination as recommended by staff.

Windorware, LLC, 509660 (AR)

10-1-08 to 1-31-09, \$106,860.22

Action: Approve the redetermination as recommended by staff.

Tesoro Refining and Marketing Company, 533375 (OH)

2-1-10 to 2-28-10, \$221,331.42

Action: Approve the relief of penalty as recommended by staff.

Cardinal Health 200, Inc., 530784 (OH)

4-1-09 to 6-30-09, \$195,526.20

Action: Approve the relief of penalty as recommended by staff.

Callidus Technologies, 479649 (OH)

7-1-08 to 9-30-08, \$189,373.00

Action: Approve the denial of claim for refund as recommended by staff.

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Century Steel Holdings, Inc., 352041 (AA)

1-1-02 to 12-31-04, \$457,908.32

Action: Approve the denial of claim for refund as recommended by staff.

Corona Networks, Inc., 224524 (GH)

1-1-00 to 9-30-02, \$171,289.34

Action: Approve the denial of claim for refund as recommended by staff.

Institutional Superstore, LP, 450879 (OH)

10-1-05 to 12-31-07, \$106,373.00

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

The Board deferred consideration of the following matter: *California Coast Credit Union, 465442 (FH)*.

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Horton, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Toyota Motor Sales, U.S.A., Inc., 490630 (AS)*; and, *Nissan North America, Inc., 532365 (OH)*; the Board made the following orders:

Paramount Petroleum Corporation, 487706 (AA)

10-1-05 to 3-31-06, \$497,910.90

Action: Approve the credit and cancellation as recommended by staff.

Beverly Hills Antiques, Inc., 532027 (AS)

1-1-08 to 6-30-08, \$183,529.51

Action: Approve the credit and cancellation as recommended by staff.

Qiagen Operon, Inc., 523749 (CH)

4-1-04 to 6-30-04, \$248,391.34

Action: Approve the credit and cancellation as recommended by staff.

Fullerton Dodge, Inc., 531720 (EA)

7-1-08 to 8-28-08, \$247,404.68

Action: Approve the credit and cancellation as recommended by staff.

Gold Key Lease, Inc., 203924 (OH)

7-1-97 to 6-30-00, \$211,437.07

Action: Approve the credit and cancellation as recommended by staff.

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Hanes & Associates, Inc., 496292 (AR)

7-1-05 to 6-30-08, \$283,457.75

Action: Approve the credit and cancellation as recommended by staff.

Toyota Motor Sales, U.S.A., Inc., 490630 (AS)

4-1-08 to 6-30-08, \$585,737.10

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Advance Business Graphics, 416034 (EH)

4-1-04 to 1-31-07, \$534,274.32

Action: Approve the refund as recommended by staff.

Nissan North America, Inc., 532365 (OH)

7-1-07 to 3-31-09, \$376,368.54

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Bank of the West, 361937 (CH)

4-1-03 to 6-30-08, \$823,380.98

Action: Approve the refund as recommended by staff.

Redwood Credit Union, 515872 (JH)

7-1-09 to 12-31-09, \$150,499.00

Action: Approve the refund as recommended by staff.

United States Pipe & Foundry Company, 480716 (OH)

1-1-03 to 12-31-05, \$115,513.90

Action: Approve the refund as recommended by staff.

Chrysler, LLC, 532990 (OH)

7-9-09 to 4-7-10, \$495,863.11

Action: Approve the refund as recommended by staff.

Sprint Spectrum Equipment Company, LP, 463894 (OH)

4-1-07 to 6-30-07, \$838,391.72

Action: Approve the refund as recommended by staff.

Plavan Commercial Fueling, Inc., 533523 (FH)

7-1-05 to 6-30-08, \$838,391.72

Action: Approve the refund as recommended by staff.

Mirant California, LLC, 531393 (CH)

1-1-06 to 12-31-06, \$948,408.60

Action: Approve the refund as recommended by staff.

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Amphastar Pharmaceuticals, Inc., 529209 (EH)

10-1-06 to 12-31-09, \$130,632.69

Action: Approve the refund as recommended by staff.

Metso Paper USA, Inc., 478145 (OH)

4-1-04 to 3-31-07, \$140,557.32

Action: Approve the refund as recommended by staff.

Wells Fargo Dealer Services, Inc., 515828 (EA)

7-1-09 to 12-31-09, \$5,900,487.00

Action: Approve the refund as recommended by staff.

Calpine Corporation, 438009 (GH)

1-1-07 to 6-30-08, \$300,180.11

Action: Approve the refund as recommended by staff.

Hansen Beverage Company, 448412 (EH)

7-1-05 to 6-30-09, \$660,127.94

Action: Approve the refund as recommended by staff.

Travis Credit Union, 515860 (JH)

7-1-09 to 12-31-09, \$421,714.00

Action: Approve the refund as recommended by staff.

Wescom Credit Union, 519018 (AP)

7-1-09 to 12-31-09, \$150,446.00

Action: Approve the refund as recommended by staff.

Arcadia Financial, Ltd., 515831 (OH)

7-1-09 to 9-30-09, \$200,327.00

Action: Approve the refund as recommended by staff.

California Coast Credit Union, 465442 (FH)

1-1-07 to 9-30-09, \$614,983.65

Action: The Board took no action.

Transouth Financial Corporation, 515844 (OH)

7-1-09 to 12-31-09, \$1,366,493.00

Action: Approve the refund as recommended by staff.

American Finance & Associates Corp., 479659 (AC)

7-1-05 to 3-31-09, \$240,368.63

Action: Approve the refund as recommended by staff.

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The Trizetto Group, Inc., 531991 (EA)

1-1-08 to 12-31-08, \$2,353,607.50

Action: Approve the refund as recommended by staff.

Bay Federal Credit Union, 515859 (GH)

7-1-09 to 12-31-09, \$143,678.00

Action: Approve the refund as recommended by staff.

Nextel Systems Corporation, 479249 (OH)

4-1-07 to 6-30-07, \$1,508,550.45

Action: Approve the refund as recommended by staff.

KC Employees Federal Credit Union, 509991 (AR)

7-1-08 to 6-30-09, \$389,723.39

Action: Approve the refund as recommended by staff.

Bio-Medical Applications of California, 468191 (OH)

7-1-05 to 9-30-08, \$284,902.57

Action: Approve the refund as recommended by staff.

Redbox Automated Retail, LLC, 520130 (OH)

4-1-06 to 3-31-09, \$104,078.83

Action: Approve the refund as recommended by staff.

ABG Acquisition Corporation, 530336 (EH)

2-1-07 to 9-30-07, \$194,398.55

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Elizabeth Wardley Kwong, 316054 (AP)

Raymond Wah Kwong, 316055 (AP)

1-1-00 to 3-28-01, \$89,155.00 Tax, \$12,215.50 Penalty

Considered by the Board: February 24, 2010

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Horton, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Medical Equipment & Supplies Discount Center, Inc., 400764 (EH)

7-1-03 to 6-30-06, \$17,110.43 Tax

Considered by the Board: February 24, 2010

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Mr. Horton moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Yee. Mr. Horton withdrew his motion.

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Ms. Steel moved to allow the sale of two scooters to Kaiser patients and that the petition otherwise be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Alby but failed to carry, Ms. Alby and Ms. Steel voting yes, Ms. Yee, Mr. Horton and Ms. Mandel voting no.

Upon motion of Mr. Horton, seconded by Ms. Yee and duly carried, Ms. Yee, Mr. Horton and Ms. Mandel voting yes, Ms. Alby and Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

A Realty Publications, Inc., 343231, 373181, 379332, 391653 (EH)

7-1-01 to 12-31-04, \$0.00 Tax, \$11,570.65 Negligence Penalty, \$5,320.56 Double Amnesty Negligence Penalty

1-1-05 to 3-31-06, \$0.00 Tax, \$5,482.50 Negligence Penalty

4-1-06 to 6-30-06, \$0.00, \$1,430.30 Penalty

7-1-06 to 9-30-06, \$0.00, \$1,354.50 Penalty

Considered by the Board: November 17, 2009

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and duly carried, Ms. Yee, Mr. Horton and Ms. Alby voting yes, Ms. Steel voting no, Ms. Mandel not participating, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

James R. Evans and Robin B. Evans, 416415

1992, \$555.10 Claim for Refund

1993, \$3,043.26 Claim for Refund

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Alby, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision modifying the action of the Franchise Tax Board.

Kenneth K. Low and Linda Marissa Low, 474345

2005, \$13,614.50 Claim for Refund

Considered by the Board: November 17, 2009

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Alby, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Joe L. Santos, 445970

2003, \$1,914.00 Tax

Considered by the Board: January 26, 2010

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, August 24, 2010

Action: Upon motion of Ms. Alby, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Alby and Ms. Steel voting yes, Ms. Yee and Ms. Mandel voting no, the Board adopted a decision granting the petition for rehearing.

Klaus W. Wang, 441035

2003, \$132,753 Tax

Considered by the Board: June 30, 2009

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Alby, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Alby and Ms. Steel voting yes, Ms. Yee and Ms. Mandel voting no, the Board adopted a decision granting the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, ADJUDICATORY

Melva M. Johnson, 443872

2007, \$1.00 or more

Considered by the Board: September 22, 2009

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Horton, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

Wells Fargo Dealer Services, Inc., 492529 (EA)

1-1-09 to 3-31-09, \$4,481,163.58

Considered by the Board: April 13, 2010

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Mal-Wal of Southern California*; *George and Magee Bralla*; *Paul Spraetz*; *Hiep Tu Thai and Russell's Seafood Palace Corp.*; *Bobby Ross Willis and Sandra Mae Willis*; and, *Kwang Min Lee and Myung Suk Lee*; as recommended by staff.

Tuesday, August 24, 2010

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD AUGUST 24, 2010**

Christopher J. Hadsell and Catherine C. Hadsell, 477797

Final Action: Ms. Steel moved to reverse the action of the Franchise Tax Board. The motion was seconded by Ms. Alby but failed to carry, Ms. Alby and Ms. Steel voting yes, Ms. Yee, Mr. Horton and Ms. Mandel voting no.

Ms. Alby moved to determine that domicile transferred from California to Nevada as of May 12, 2000. The motion was seconded by Ms. Steel. Ms. Alby withdrew her motion.

Upon motion of Ms. Yee, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board directed staff to prepare a summary and matrix of existing law, court decisions and Board opinions regarding the issue of domicile, and ordered that the appeal be brought back to the Board for decision at a later date.

Noel Yi and Meiling Yi, 479854

Final Action: (Expunged on August 25, 2010.)

Brent C. Welling and Viki Lee Welling, 348029

Final Action: Mr. Horton moved to sustain the action of the Franchise Tax Board. The motion was seconded by Ms. Yee. Mr. Horton withdrew his motion.

Upon motion of Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board directed staff to prepare a summary and matrix of existing law, court decisions and Board opinions regarding the issue of domicile, and ordered that the appeal be brought back to the Board for decision at a later date.

Maureen T. Scarbery and Brian E. Scarbery, 480106

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

George Daniel, 518507

Final Action: Upon motion of Ms. Alby, seconded by Ms. Steel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Tuesday, August 24, 2010

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Judith Rich, 505587

2002, \$1,722.19 Assessment

2003, \$240.27 Assessment

2004, \$290.36 Assessment

For Appellant:

No Appearance

For Franchise Tax Board:

Craig Scott, Tax Counsel

Karen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown the accuracy-related penalties should be abated.

Whether this Board has jurisdiction to consider the post-amnesty penalty.

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board with its concession to reduce the accuracy-related penalty for 2002 to \$677.30.

The Board adjourned at 5:39 p.m.

The foregoing minutes are adopted by the Board on November 18, 2010.

Note: The following matters were removed from the calendar prior to the meeting: *Isaac Contreras, 519049; John Ray James Ford, 436515; and, (JH) Adele J. Fasano, 474165.*

Wednesday, August 25, 2010

The Board met at its offices at 450 N Street, Sacramento, at 9:46 a.m., with Ms. Yee, Chairwoman, Mr. Horton, Vice Chair, Ms. Alby and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARING

Grimmway Enterprises, Inc., 379508, 379965 (AR)

1-1-02 to 12-31-04, \$1,981,194.04 Tax

1-1-02 to 12-31-02, \$1.00 or more Claim for Refund

For Petitioner/Claimant:

Steve Barnes, Taxpayer

Joseph A. Vinatieri, Attorney

Jason Demille, Attorney

For Sales and Use Tax Department:

Chris Schutz, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether adjustments are warranted to the disallowed claimed partial exemptions for purchases of farm equipment and machinery.

Action: Upon motion of Ms. Mandel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD AUGUST 24, 2010

Noel Yi and Meiling Yi, 479854 (continued)

Final Action: Upon motion of Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board expunged its motion of August 24, 2010.

Upon motion of Mr. Horton, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board deferred consideration of the matter to the next Sacramento Board meeting to allow the Franchise Tax Board to: 1) follow-up with the taxpayers to determine if the \$28,000 check related to the Broadway property and, if so, to adjust the taxpayers' basis in the property accordingly; and, 2) determine if FTB had any language barrier issues in the review of the taxpayers' documents or any documents written in a foreign language (i.e., in Chinese).

SALES AND USE TAX APPEALS HEARINGS

Main Street California, Inc., 224746 (OH)

4-1-89 to 6-30-01, \$320,799.88 Tax

For Petitioner:

Troy M. Van Dongen, Attorney

Paul Blough, Witness

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the gratuities petitioner charged and collected for parties of eight or more (large parties) were voluntary and therefore not subject to sales tax.

Wednesday, August 25, 2010

Whether additional adjustments are warranted for the audited unreported taxable gratuities.

Action: Upon motion of Mr. Horton, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Board recessed at 11:48 a.m. and reconvened at 11:54 a.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

Eugenia D. Valdez, 482782 (KH)

1-1-06 to 6-30-07, \$7,750.82 Relief of Interest as of 8-31-10

For Petitioner: Eugenia Valdez, Taxpayer

For Sales and Use Tax Department: Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether some or all of the interest that has accrued on the audit liability should be relieved.

Action: Upon motion of Ms. Mandel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Ms. Yee directed staff to report back to the Board how district offices handle taxpayer inquiries, especially those that get referred to other Board offices.

The Board recessed at 12:23 p.m. and reconvened at 1:35 p.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

Lynne Marie Gallagher and Francis Xavier Gallagher, 459368 (BH)

7-1-03 to 6-26-06, \$17,891.43 Tax

For Petitioners: Francis Gallagher, Taxpayer

Jonathan Wexler, Representative

For Sales and Use Tax Department: Stephen Smith, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether adjustments are warranted to the disallowed claimed nontaxable alteration charges.

Whether adjustments are warranted to the disallowed claimed nontaxable sales for resale.

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

Wednesday, August 25, 2010

Jen Kubala and Sharon Stencil, 473195 (KH)

5-9-05 to 3-31-08, \$30,000.00 Successor Liability

For Petitioner:

Sharon Stencil, Taxpayer

Frederick W. Smith, Jr., Attorney

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is liable as a successor for the unpaid tax-related liabilities of Lesa Marie Coopersmith.

Action: Upon motion of Ms. Mandel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Horton, seconded by Ms. Alby and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California ([Exhibit 8.5](#)).

Irene Johnson (Amendment), Senior Programmer Analyst (Specialist),
Technology Services Department

Barbara A. Lee, Office Service Supervisor II, Cashier Section

Michelle Maciel, Staff Service Manager III, eServices Team

Patricia Molina, Business Taxes Compliance Specialist, Environmental Fees
Division, Property and Special Taxes Department

Gloria Reid, Staff Information Systems Analyst, San Francisco Office

Action: Approve the 2011 Board Workload Plan, which includes annual property tax calendars for the valuation of public utilities and railroads and the assessment and collection of private railroad car tax ([Exhibit 8.6](#)).

Action: Continue the current Revenue and Taxation Code, section 6355, coins and bullion bulk sale exemption threshold of \$1,500, as recommended by staff ([Exhibit 8.7](#)).

Action: Adopt property tax forms as presented by staff ([Exhibit 8.8](#)).

Exhibits to these minutes are incorporated by reference.

Wednesday, August 25, 2010

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**Legislative Committee of July 13, 2010**

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 8.9](#)).

Committee vote was as follows:

A recommendation of support for *SB 884 Use Tax Registrants: Due Dates, Author: Ashburn and Runner* unanimously passed with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes.

Legislative Committee of August 25, 2010

Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 8.10](#)).

OTHER ADMINISTRATIVE MATTERS**Executive Director's Report**

Ramon Hirsig, Executive Director, provided a report on the BOE 2010-15 Final Strategic Plan and the accompanying 3-Year Business Plan 2010-13 ([Exhibit 8.11](#)).

Ms. Yee thanked Mr. Hirsig and staff for the work and high level of foresight that went into this project.

Sales and Use Tax Deputy Director's Report

Randie L. Henry, Deputy Director, Sales and Use Tax Department, made introductory remarks and presented the Informal Issue Paper: *Field Office of the Future*, and discussed options for how the BOE field offices can look and function in the future ([Exhibit 8.12](#)).

Ms. Yee directed staff to periodically update the Members on the field office leases that are up for renewal.

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, provided an update on the Headquarters Remediation Project; and, an update on the Headquarters annex locations.

Mr. Horton requested that staff share with the Governor's office the potential remediation cost related to the building and any anticipated legal liabilities as a result of health care allegations related to the Headquarters building at 450 N Street in Sacramento.

Wednesday, August 25, 2010

Liz Houser, Deputy Director, Administration Department, provided information regarding the Governor's 2010/11 and 2011/12 Budget, Governor's Executive Order S-12-10 State Employee Furlough, and layoffs. Ms. Houser reported that the BOE will continue to accept registered warrants as in prior years. Ms. Houser also reported that the Budget Conference Committee continues to explore options to address the deficit; items include: use tax nexus, alcoholic beverage tax increase, oil severance tax, and a tax reform package.

Liz Houser, Deputy Director, Administration Department, provided a high level overview of the 2011/12 DRAFT Budget Change Proposals ([Exhibit 8.13](#)).

Ms. Steel requested that staff receive more sensitivity training with regards to the SCOP program and visiting taxpayers' businesses.

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and duly carried, Ms. Yee, Mr. Horton and Ms. Mandel voting yes, Ms. Alby and Ms. Steel voting no, the Board approved the 2011/12 DRAFT Budget Change Proposal: *Permanent Establishment of the Statewide Compliance and Outreach Program (SCOP)* ([Exhibit 8.14](#)).

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and duly carried, Ms. Yee, Mr. Horton and Ms. Mandel voting yes, Ms. Alby and Ms. Steel voting no, the Board approved the 2011/12 DRAFT Budget Change Proposal: *Enhancing Tax Compliance* ([Exhibit 8.15](#)).

Action: Upon motion of Ms. Alby, seconded by Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the 2011/12 DRAFT Budget Change Proposal: *Board of Equalization (BOE) Offices of the Future* ([Exhibit 8.16](#)).

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board approved the 2011/12 DRAFT Budget Change Proposal: *BOE Rent Increase (Placeholder)* ([Exhibit 8.17](#)).

The Board recessed at 3:43 p.m. and reconvened at 3:48 p.m. with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD AUGUST 25, 2010

Grimmway Enterprises, Inc., 379508, 379965 (AR)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Horton and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition and claim be granted and the tax be redetermined accordingly.

Main Street California, Inc., 224746 (OH)

Final Action: Upon motion of Mr. Horton, seconded by Ms. Mandel and duly carried, Ms. Yee, Mr. Horton, Ms. Alby and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wednesday, August 25, 2010

Eugenia D. Valdez, 482782 (KH)

Final Action: Upon motion of Mr. Horton, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division and directed staff to consider a generous payment plan for the taxpayer.

Jen Kubala and Sharon Stencil, 473195 (KH)

Final Action: Upon motion of Mr. Horton, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division and directed staff to inform the taxpayer of the Offer in Compromise Program.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 3:54 p.m. and reconvened immediately in closed session with Ms. Yee, Mr. Horton, Ms. Alby, Ms. Steel and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 4:37 p.m. and reconvened immediately in open session with Ms. Yee, Mr. Horton, Ms. Alby and Ms. Mandel present.

The Board adjourned at 4:38 p.m.

The foregoing minutes are adopted by the Board on November 18, 2010.

Note: The following matter was removed from the calendar prior to the meeting: *Eric Thomas Welch, 325518 (KH)*.